RECEIVED
CENTRAL FAX CENTER
APR 0 9 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Appellant: Domel	Art Unit: 3634
Serial No.: 10/062,655	Examiner: Johnson
Filed: February 1, 2002	1006.023
For: OPERATING SIGNAL SYSTEM AND METHOD FOR CONTROLLING A MOTORIZED WINDOW COVERING	April 9, 2007 750 B STREET, Suite 3120 San Diego, CA 92101

SUPPLEMENTAL APPEAL BRIEF

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

The appeal is reinstated in response to the Office Action dated March 20, 2007. Appeal fees have been paid previously.

Table of Contents

(1) Real Party in Interest

The real party in interest is Harmonic Design, Inc.

(2) Related Appeals/Interferences

No other appeals or interferences exist which relate to the present application or appeal.

(3) Status of Claims

Claims 1-20 are pending and more than twice rejected, which rejections are hereby appealed.

(4) Status of Amendments

No amendments are outstanding.

(5) Summary of Claimed Subject Matter

As an initial matter, it is noted that according to the Patent Office, the concise explanations under this section are for Board convenience, and do not supersede what the claims actually state, 69 Fed. Reg. 155 (August 2004), see page 49976. Accordingly, nothing in this Section should be construed as an estoppel that limits the actual claim language.

Claim 1 recites a motorized window covering that includes a window covering member (reference numeral 14, figure 1; page 3, lines 17-21). A remote control unit (34, figure 1; page 4, line 21) with a transmitter (202, figure 4; page 10, line 20) are provided, and an actuator (10, supra) is coupled to the window covering member 14. The actuator 10 includes a receiver (204/205, page 10, line 22) for receiving at least

one signal from the transmitter 202. A wake-up signal amplifier (208, figure 4, page 10, lines 26-28) is electrically connected to the receiver for receiving an IR or RF a wake-up signal having a first frequency, and a data signal amplifier (206, id.) is electrically connected to the receiver for receiving a data signal having a second frequency higher than the first frequency, with the data signal carrying information for moving the window covering.

Claim 7 sets forth a method for controlling a motorized window covering (reference numeral 14, figure 1; page 3, lines 17-21) that includes deactivating a data signal amplifier (206, figure 4, page 10, lines 26-28) and activating a wake-up signal amplifier (208, figure 4, page 10, lines 26-28). The method also includes activating the data signal amplifier 206 to process an IR or RF data signal to move the window covering 14 only in response to an IR or RF wake-up signal being received by the wake-up signal amplifier 208, with the wake up signal having a first frequency and the data signal having a second frequency different from the first frequency.

Claim 12 recites a system for controlling a motorized window covering (reference numeral 14, figure 1; page 3, lines 17-21) that includes an actuator (10, supra) that is mechanically coupled to an operator (12, figure 1, page 3, line 18) of the window covering. A wake-up signal amplifier (208, figure 4, page 10, lines 26-28) receives a wake-up signal having an IR or RF frequency. Also, a data signal amplifier (206, figure 4, page 10, lines 26-28) receives a data signal having an IR or RF frequency higher than the first frequency. The data signal carries information for moving the window covering 14. A processor within the actuator includes a program for controlling the actuator in response to at least one data signal (logic in figure 5).

(6) **Grounds of Rejection to be Reviewed on Appeal**

Claims 1-20 have been rejected under 35 U.S.C. §103 as being obvious in light of van Dinteren et al., USPN 5,909,093 in view of Buccola, USPN 6,486,793 or German 3,438,842.

(7) **Argument**

All pending claims (1-20) have been rejected as being unpatentable over van Dinteren et al. in view of Buccola or German '842. In marked contrast to the present claims, the primary reference uses only a single data signal to undertake both a wake-up function and a command function, col. 5, lines 50-53, indicating that the signal used by the Schmitt trigger to wake up the circuit is the "first or second signal" referred to at col. 5, lines 4-15 as clearly being the data signal itself. Accordingly, van Dinteren et al. neither teaches nor suggests the use of using a wake-up signal that has a different frequency than the data signal and that as a consequence affords the advantages noted in the present specification on page 11.

Buccola has been used to remedy the above shortfall. The combination of Buccola with the primary reference is improper on two easily understood grounds. First, Buccola is drawn to door locks; the door lock art is not analogous to the window covering art of the present claims. No evidence has been adduced of record that the artisan skilled in the window covering art would logically look to the door lock art, MPEP §2141. Note that the present claims do not presume to cover "power saving methods and systems" generally, but rather are specifically directed to the art of window coverings. It would be difficult at best to advance the argument that door locks are analogous to window coverings.

Second and perhaps not surprisingly given their disparate fields, no suggestion exists to combine Buccola with van Dinteren et al. Nowhere does Buccola suggest using its principles in anything other than locking mechanisms, much less does Buccola suggest using any of its disclosure with window covering operating systems. Van Dinteren et al. nowhere suggests using more than one signal in the first place, so why one would be motivated on the basis of van Dinteren et al. to incorporate, in some unknowable fashion, the locking system of Buccola, much less the particular part of it being relied on in the rejection, is a mystery.

Furthermore, the examiner, quite understandably, ventures no attempt to comply with the requirement of MPEP §2143 to explain why a reasonable expectation of success exists in combining a door lock circuit with a window covering operating circuit. There is no clue as to how van Dinteren et al., precisely, would be modified to incorporate a door lack circuit. Would the entire circuit of van Dinteren et al. have to be removed and replaced by the door lock circuit of Buccola, thus enabling van Dinteren et al. certainly capable of unlocking a door but not perhaps moving a window covering? If not, and only the relied-upon part of Buccola used in van Dinteren et al., where and how would this unsuggested portion be dropped into the circuit of van Dinteren et al.? Without understanding quite how Buccola could be incorporated into van Dinteren et al., a reasonable expectation of success cannot be shown in compliance with the MPEP.

The problem with making a prima facie case is further complicated by the fact that the relied-upon teaching of Buccola is sparse indeed. All it states is that two detectors can be provided for receiving respective frequencies, one of which "wakes up" the microprocessor. But nowhere does Buccola teach what generates the frequencies, or how the wake up frequency "prepares" the microprocessor for operation, or even that the microprocessor is deenergized until receipt of the wake up frequency. Given this bare hint at how the wake up feature functions in the intended environment of Buccola, it is no wonder that the requisite prior

art suggestion is completely absent of just how the opaque teaching of Buccola could be transferred into a completely uncontemplated window covering system.

In previous office actions contentions have been made that the two references can be physically incorporated together because all the examiner proposes doing is substituting the transmitting and receiving system of Buccola for that of van Dinteren. But this entirely misses the point that no explanation has been offered of how, precisely, van Dinteren et al. would be modified to incorporate a door lack circuit, as is otherwise required by MPEP §2143. If only the relied-upon transceiver system of Buccola is used in van Dinteren et al., where and how would this unsuggested portion be dropped into the circuit of van Dinteren et al., and why would there be a reasonable expectation of success that a door lock transceiver would work in a window blind system? The requirement of the MPEP to explain the reasonable expectation of success of a proposed modification has not been acknowledged much less fulfilled.

Previous actions have also argued that Buccola is analogous art because the problem to which the present invention is directed is "conserving power", but no claim is directed to "conserving power" in a vacuum, but rather to a specific technical field - motorized window coverings. Not door locks. Otherwise, there would be no principled reason to deny that power conservation references in areas such as spaceship design would also be analogous to the present window covering claims. Statements to the contrary - that one would have been motivated to "look to power conserving devices in general, not merely within the blind art" - are mere conclusions that are unsupported by any prior art evidence such as, e.g., a finding as to the level of skill in the art, much less why that level of skill would motivate the window blind artisan to look to the door lock art, MPEP §2143.

Turning to the alternate ground of rejection using the German document (hereinafter "Germany"), as the secondary reference, Germany is directed to doors, not window coverings, and to date no evidence has been adduced of record that the window covering artisan dealing in designing flexible and (compared to doors) flimsy covering members to cover fragile glass windows logically would look to an art dealing in steady, stiff doors to cover openings for ingress and egress, see MPEP §2141. Accordingly, Germany is not analogous to the present claims.

Furthermore, it appears that the flash of visible light used by Germany to actuate the second (data) receiver could not be replaced with IR or RF, since Germany carefully designs the flash to distinguish itself from ambient light, and ambient heat or transient RF transmissions otherwise would be expected to interfere. Indeed, on page 5 of the English translation of Germany, last paragraph, it is explicitly taught that the visible spectrum "advantageously" is used to reduce power consumption and to facilitate easily adjusting rise gradation and instantaneous brightness, clearly teaching away from a trigger or wake-up signal that is IR or RF as claimed.

Indeed, the examiner freely admits that while Germany discloses IR/RF in his background, he fails to use an IR or RF receiver, Office Action, top of page 3, because, as admitted by the examiner, Germany seeks to improve over RF/IR. If anything, this is an admission of a teaching away, rendering the *prima facie* case defective under MPEP §2141.02(VI).

Additionally, Claims 1 and 12 require the data signal to have a higher frequency than the wake-up signal. While Germany is silent as to frequencies, it contemplates IR as the data signal - with a lower frequency than visible light - and nowhere mentions that when RF is used as the data signal, the RF should

have a higher frequency than visible light. The mere fact that a reference can be modified does not render an invention obvious, unless the modification is suggested by the prior art, In re Mills, cited in MPEP §2143. Here, Germany does not recognize the advantage disclosed in the present specification on page 11, lines 6-11 of having a low frequency wake-up signal and a higher frequency data signal, much less does Germany suggest such a relationship.

While the above defects in the rejection apply to all claims, consider that certain particular claims would not result from the proposed combination of references however improper the combination may be. For example, it appears from the portion of col. 4 of Buccola relied on that the only thing getting awakened is the microprocessor, with the series of amplifiers mentioned in the Office Action evidently always being energized. In marked contrast, Claim 7 explicitly requires deactivating a data signal amplifier, activating a wake-up signal amplifier, and then re-activating the data signal amplifier to process a data signal to move the window covering *only* in response to a wake-up signal being received by the wake-up signal amplifier. This amplifier operation simply does not occur in Buccola, nor is any amplifier operation mentioned in the rejection, which is focussed only on allegations regarding a wake up signal and a data signal and not on what those signals accomplish. It appears that the examiner has in effect examined only Claim 1. Similar comments apply to dependent Claims 4, 5, and 13.

Additionally, the limitations of Claims 6, 9, and 15 (if a data signal is not received within a predetermined time period, deactivating the data signal amplifier) appear not to have been examined. Similarly, Claim 19 (battery is an alkaline or Lithium battery) and Claim 20 (battery is the sole source of power for the motor) appear not to have been examined.

Respectfully submitted,

John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

JLR:jg

1006-23.AP2

APPENDIX A- CLAIMS

1. A motorized window covering, comprising:

a window covering member;

a remote control unit;

a transmitter within the remote control unit;

an actuator coupled to the window covering member;

a receiver within the actuator, the receiver receiving at least one signal from the transmitter;

a wake-up signal amplifier electrically connected to the receiver for receiving an IR or RF wake-up signal having a first frequency; and

a data signal amplifier electrically connected to the receiver for receiving an IR or RF data signal having a second frequency higher than the first frequency, the data signal carrying information for moving the window covering.

2. The motorized window covering of Claim 1, wherein at least one wake-up signal is transmittable by the transmitter and receivable by the receiver.

3. The motorized window covering of Claim 2, wherein at least one data signal is transmittable by the transmitter and receivable by the receiver.

4. The motorized window covering of Claim 3, wherein the wake-up signal amplifier is energized continuously.

5. The motorized window covering of Claim 4, wherein the data-signal amplifier is de-energized until the wake up signal is received at the receiver.

6. The motorized window covering of Claim 5, wherein the data-signal amplifier is de-energized if the data signal is not received at the receiver within a predetermined time period.

7. A method for controlling a motorized window covering, comprising the acts of:

deactivating a data signal amplifier;

activating a wake-up signal amplifier; and

activating the data signal amplifier to process an IR or RF data signal to move the window covering only in response to an IR or RF wake-up signal being received by the wake-up signal amplifier, the wake up signal having a first frequency and the data signal having a second frequency different from the first frequency.

8. The method of Claim 7, further comprising the act of:

when a data signal is received at the data signal amplifier, operating the motorized window covering in response thereto.

9. The method of Claim 8, further comprising the act of:

if a data signal is not received within a predetermined time period, deactivating the data signal amplifier.

10. The method of Claim 7, wherein the wake-up signal is generated by a remote control unit and wherein the data signal is generated by the remote control unit.

11. The method of Claim 8, wherein the data signal has a higher frequency than the wake-up signal.

12. A system for controlling a motorized window covering, comprising:

an actuator mechanically coupled to an operator of the window covering;

a wake-up signal amplifier for receiving a wake-up signal transmitted with a first IR or RF frequency;

a data signal amplifier receiving a data signal transmitted with a second IR or RF frequency higher than the first frequency, the data signal carrying information for moving the window covering; and

a processor within the actuator, the processor including a program for controlling the actuator in response to at least one data signal.

13. The system of Claim 12, wherein the program includes:

means for deactivating a data signal amplifier;

means for activating a wake-up signal amplifier; and

means for activating the data signal amplifier only in response to a wake-up signal being received by the wake-up signal amplifier.

14. The system of Claim 13, wherein the program further includes:

means for operating the motorized window covering in response to the data signal being received by the receiver.

15. The system of Claim 14, wherein the program further includes:

means for deactivating the data signal amplifier if a data signal is not received within a predetermined time period.

16. The system of Claim 12, further comprising:

means for generating the wake-up signal.

17. The system of Claim 12, further comprising:

means for generating the data signal.

18. The system of Claim 12, further comprising a head rail supporting a motor of the actuator and holding at least one battery electrically connected to the motor.

19. The system of Claim 18, wherein the at least one battery is an alkaline or Lithium battery.

20. The system of Claim 18, wherein the at least one battery is the sole source of power for the motor.

APPENDIX B - EVIDENCE

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

APPENDIX C - RELATED PROCEEDINGS

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)